

**Asphalt Trail Maintenance Agreement
Cedar Lee Condominium of Bealeton**

This Trail Maintenance Agreement ("Agreement") is made this ____ day of _____, 2006, by and between the Fauquier County Board of Supervisors (Fauquier County) and the Cedar Lee Condominium Association, Inc. (CLCA)

RECITALS

WHEREAS, Cedar Lee Condominium of Bealeton is a residential condominium development located in Fauquier County, Virginia at 6403 School House Road, specifically shown on the Site Plan dated 3/10/05 as prepared by Carson, Harris and Associates of Warrenton, Virginia; and further identified by Fauquier County PIN: 6899-32-0361; and

WHEREAS, CLCA is responsible for maintaining the common areas of the development; and

WHEREAS, Fauquier County, as a condition of site plan approval, required the construction of a 4' wide asphalt trail on the frontage of Torrie Station along Schoolhouse Road; and

WHEREAS, said asphalt trail falls within the right-of-way controlled by the Virginia Department of Transportation (VDOT) and, therefore, required a VDOT permit for its construction; and

WHEREAS, VDOT Permit # 746-9648 was issued effective November 5, 2004 allowing the construction of said asphalt trail and other improvements; and

WHEREAS, the construction of improvements allowed by VDOT Permit # 746-9648 have been completed; and

WHEREAS, a condition of VDOT Permit # 746-9648 stipulates the permit completion and bond release cannot be obtained unless an agreement to maintain said asphalt trail is in place; and

WHEREAS, VDOT will only issue permits for maintenance work within its right-of-way to governmental entities with the capacity to complete such work; and

WHEREAS, Fauquier County agrees to obtain the necessary permits from VDOT to assure appropriate continued maintenance of the referenced asphalt trail at Torrie Station; and

WHEREAS, the Fauquier County Board of Supervisors may engage a third party to actually perform maintenance work approved under a VDOT issued permit for which Fauquier County is the permittee; and

WHEREAS, CLCA agrees to be the County's agent in implementing future repairs and improvements to the Cedar Lee Condominium asphalt trail as allowed by VDOT permits issued to Fauquier County;

NOW THEREFORE, in consideration of the mutual obligations set forth herein, CLCA and Fauquier County do hereby agree as follows:

TERMS

1. Fauquier County and CLCA agree that Fauquier County has engaged CLCA to perform maintenance of the Torrie Station asphalt trail within the VDOT right-of-way.
2. CLCA acknowledges and agrees that it shall be responsible, at its own expense, to be funded by member assessments under the condominium instruments, for the maintenance of said asphalt trail including the cost of permitting and other associated fees.
3. Fauquier County acknowledges and agrees that it shall be responsible for obtaining all VDOT required permits associated with the maintenance of said asphalt trail.
4. Provisions of this agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the parties hereto or their respective successors or assigns.
5. The parties hereto agree to do any and all further acts and to execute, acknowledge, seal, and deliver any and all other and further instruments and documents (not otherwise inconsistent herewith) in order to consummate the transactions contemplated hereby. The parties hereto shall cooperate with each other in every reasonable manner, other than pecuniarily, in order to fulfill each party's obligations under this agreement.
6. CLCA, its successors and assigns shall indemnify and hold Fauquier County and VDOT harmless from any loss, damage, injury, cost or other claim related to the maintenance of the asphalt trail, except those claims arising from the sole negligence of Fauquier County or VDOT. CLCA further agrees that it shall not seek indemnification or contribution from Fauquier County to correct any damages arising from the maintenance of the asphalt trail.
7. If CLCA fails to perform its maintenance obligations as required by this agreement for a period of more than thirty (30) days after written notice is given to CLCA by Fauquier County, the County shall have the right to perform such maintenance and CLCA shall reimburse Fauquier County, as appropriate, upon demand for the cost of such maintenance.

[SIGNATURES CONTAINED ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date
first above written.

Cedar Lee Condominium Association

By: _____
Name: _____
Title: _____

Fauquier County Board of Supervisors

By: _____
Name: _____
Title: _____